

Dond

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9473 OF 2014

Mrs. Ruchira Manoj Bende @

Kum. Meena Ramchandra Sonkusare

..Petitioner.

Vs.

1.State of Maharashtra

2.Scheduled Tribe Caster Certificate

Scrutiny Committee

3.Zilla Parishad, Thane

..Respondents.

Mr. R.K. Mendadkar for Petitioner.

Mr. C.P. Yadav, AGP for Respondent Nos.1 and 2.

Mr. S.P. Thorat for Respondent No.3.

**CORAM: NARESH H. PATIL &
A.S. GADKARI, JJ.**

DATE : 13th January 2015.

Oral Judgment (Per Naresh H. Patil, J.):-

Heard.

2 Rule. Rule is made returnable forthwith, by consent of the parties.

3 The Petitioner was terminated by an order dated 29th September 2014 by the Chief Executive Officer, Zilla Parishad, Thane on account of non-submission of caste validity certificate. The Petitioner claims to be belonging to “Halba” Scheduled Tribe.

3 Learned Counsel appearing for the Respondent-Zilla Parishad submits that since year 2008, the Zilla Parishad-Authorities were continuously demanding the necessary documents from the Petitioner to be forwarded to the Caste Scrutiny Committee, but the Petitioner did not co-operate with the Zilla Parishad administration. He submits that there was no other alternative for the Zilla Parishad, but to terminate the services of the Petitioner.

4 Learned AGP submits that nine-months is required for final disposal of the matter and there are about 4500 pending cases before the Caste Scrutiny Committee, Nagpur region.

5 Learned Counsel for the Petitioner refers to the order passed by the Division Bench of this Court in Writ Petition No.8133 of 2014 dated 29th September 2014. It is submitted that the Chief Executive Officer has no power to terminate the services of the Petitioner on account of non-submission of caste validity certificate, and therefore, on this ground alone the petition succeeds. He submits that the Petitioner will co-operate with the Caste Scrutiny Committee for early disposal of the issue pending before the Committee. He further submits that he has no reservation if the hearing of the proceedings before the Committee is expedited for getting early decision in the matter.

6 The Chief Executive Officer, Zilla Parishad, Thane has terminated the Petitioner from the service under reference under Section 10 of the Maharashtra Schedule Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. The Chief Executive Officer, Zilla Parishad is not conferred with the power to terminate the services of the Petitioner before the Caste Verification Committee exercises its jurisdiction and passes final order on the proposal forwarded to it. As the proposal is still pending before the Committee, the order passed by the Chief Executive Officer, Zilla Parishad requires interference. It seems that as the Petitioner was not co-operating in forwarding necessary documents to the Chief Executive Officer for sending it to the Committee for verification, the Chief Executive Officer, as a last resort had passed an order terminating the services of the Petitioner. But the facts remains that the order needs to be passed in accordance with the power conferred by the statute and in consonance with the settled principles of law. On this touch-stone the impugned order cannot be sustained.

7 It is a matter of introspection for the State, as thousands of such Applications are pending before various Committees in the State. It is informed by the learned AGP that around 4500 Applications/Proposals are pending before the Caste Scrutiny Committee, Nagpur Region, therefore, it would be necessary to constitute Committees at District level so as to ease out the pressure on this Committee and for faster disposal of the Applications pending before various Committees. If that happens, it would sub-serve the purpose of the enactment and it would be beneficial to the large section of the society.

8 Hence, we pass following order:

- (i) The Petition is allowed;
- (ii) The impugned order dated 29th September 2014 is set aside;
- (iii) We direct the Respondent No.2-Committee to finally dispose of the Petitioner's caste claim proposal within three months from today on its own merits;
- (iv) In case the Petitioner fails to co-operate with the Committee, then the Committee shall proceed on the basis of available record and pass a reasoned order;
- (v) It is clarified that this Court has not expressed any opinion on

the merits of the caste claimed by the Petitioner;

(vi) In case the order of the Caste Scrutiny Committee is adverse to the Petitioner's interest, necessary consequences in law would follow;

(vii) Rule is made absolute;

(viii) The Registry to forward a copy of this order to the State.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)